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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,060	06/10/2003	L. Gordon Letts	102258.157US1	8895

25270 7590 09/19/2005  
EDWARD D GRIEFF  
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1455 PENNSYLVANIA AVE, NW  
WASHINGTON, DC 20004

EXAMINER
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ANDERSON, REBECCA L

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/718060

June 10, 2003

Letts et al.

102258, 157 US 1

## EXAMINER

R. Anderson

## ART UNIT

## PAPER

1626

091205

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

## Commissioner for Patents

The reply filed on 08 July 2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): While applicant has elected Group I in response to the restriction requirement mailed 14 June 2005, applicant has not elected a single compound within the elected group as required on page 5. Specifically, applicant elected the compound of the formula (V), however this compound is not within applicants' elected invention of group I. Specifically, the claim 1 has the proviso that "X-K" in the compounds of formula (I) does not include nitroxyl lower alkyl esters. As stated on page 20 of applicants' instant specification, the proviso excludes compounds such as 4-(nitroxyl)butyl 2(2-((2-chloro-6-fluorophenyl)amino)5-methylphenyl)acetate as disclosed in WO 99/11605. WO 99/11605, prepares prodrug esters of the compounds of the I such as nitrooxy-loweralkyl esters (such as the 4-nitrooxybutyl ester) which according to STN has the structure of  $-(CH_2)_4-O-NO_2$ . Therefore, applicants' instant elected compound of formula (V) which includes nitroxyl lower alkyl esters in the "X-K" group, i.e.  $-CH_2-CH(-O-NO_2)-CH_2-O-NO_2$  is included in applicants' instant proviso of claim 1 as the "X-K" group contains nitroxyl lower alkyl esters, and therefore is not within the elected invention of Group I. Applicant is required in response to this notice to elect a single compound that is within the elected invention of Group I. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

## Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (571) 272-0696. Mrs. Anderson can normally be reached Monday through Friday 5:30AM to 2:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rebecca Anderson  
Patent Examiner  
Art Unit 1626, Group 1620  
9/12/05

for *Kamal Saeed*  
Joseph K. McKane  
Supervisory Patent Examiner  
Art Unit 1626, Group 1620

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PRIMARY EXAMINER